

CITY OR TOWN OPTION SALES AND USE TAX

AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brad L. Dee

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends the City or Town Option Sales and Use Tax Act to address the imposition or repeal of the tax.

Highlighted Provisions:

This bill:

- ▶ amends the City or Town Option Sales and Use Tax Act to address the imposition or repeal of the tax beginning on July 1, 2016; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-12-2103, as last amended by Laws of Utah 2011, Chapters 198 and 309

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **59-12-2103** is amended to read:

59-12-2103. Imposition of tax -- Base -- Rate -- Expenditure of revenues collected from the tax -- Administration, collection, and enforcement of tax by commission -- Administrative charge -- Enactment or repeal of tax -- Annexation -- Notice.

(1) (a) Subject to the other provisions of this section and except as provided in Subsection (2) or (3), beginning on January 1, 2009 and ending on June 30, 2016, if a city or town receives a distribution for the 12 consecutive months of fiscal year 2005-06 because the city or town would have received a tax revenue distribution of less than .75% of the taxable sales within the boundaries of the city or town but for Subsection 59-12-205(4)(a), the city or town legislative body may impose a sales and use tax of up to .20% on the transactions:

(i) described in Subsection 59-12-103(1); and

(ii) within the city or town.

(b) A city or town legislative body that imposes a tax under Subsection (1)(a) shall expend the revenues collected from the tax for the same purposes for which the city or town may expend the city's or town's general fund revenues.

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(2) (a) A city or town legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(ii) except as provided in Subsection (2)(b), amounts paid or charged for food and food ingredients.

(b) A city or town legislative body imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(3) ~~[(b)]~~ (a) Beginning on January 1, 2009 and ending on June 30, 2016, to impose a tax under this part, a city or town legislative body shall obtain approval from a majority of the members of the city or town legislative body.

(b) If, on June 30, 2016, a city or town is not imposing a tax under this part, the city or town legislative body may not impose a tax under this part beginning on or after July 1, 2016.

(c) (i) If, on June 30, 2016, a city or town imposes a tax under this part, the city or

town shall repeal the tax on July 1, 2016, unless, on or after July 1, 2012, but on or before June 30, 2016, the city or town legislative body obtains approval from a majority vote of the members of the city or town legislative body to continue to impose the tax.

(ii) If a city or town obtains approval under Subsection (3)(c)(i) from a majority vote of the members of the city or town legislative body to continue to impose a tax under this part on or after July 1, 2016, the city or town may impose the tax until no later than June 30, 2030.

(4) The commission shall transmit revenues collected within a city or town from a tax under this part:

(a) to the city or town legislative body;

(b) monthly; and

(c) by electronic funds transfer.

(5) (a) Except as provided in Subsection (5)(b), the commission shall administer, collect, and enforce a tax under this part in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(b) A tax under this part is not subject to Subsections 59-12-205(2) through (6).

(6) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this part.

(7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (7)(a)(i) from the city or town.

(ii) The notice described in Subsection (7)(a)(i)(B) shall state:

(A) that the city or town will enact or repeal a tax or change the rate of the tax under

86 this part;

87 (B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);

88 (C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and

89 (D) if the city or town enacts the tax or changes the rate of the tax described in
90 Subsection (7)(a)(ii)(A), the rate of the tax.

91 (b) (i) If the billing period for a transaction begins before the enactment of the tax or
92 the tax rate increase under Subsection (1), the enactment of a tax or a tax rate increase shall
93 take effect on the first day of the first billing period that begins after the effective date of the
94 enactment of the tax or the tax rate increase.

95 (ii) If the billing period for a transaction begins before the effective date of the repeal
96 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate
97 decrease shall take effect on the first day of the last billing period that began before the
98 effective date of the repeal of the tax or the tax rate decrease.

99 (c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales
100 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
101 described in Subsection (7)(a)(i) takes effect:

102 (A) on the first day of a calendar quarter; and

103 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
104 rate of the tax under Subsection (7)(a)(i).

105 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
106 commission may by rule define the term "catalogue sale."

107 (d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs
108 on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the
109 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
110 effect:

111 (A) on the first day of a calendar quarter; and

112 (B) after a 90-day period beginning on the date the commission receives notice meeting
113 the requirements of Subsection (7)(d)(ii) from the city or town that annexes the annexing area.

114 (ii) The notice described in Subsection (7)(d)(i)(B) shall state:

115 (A) that the annexation described in Subsection (7)(d)(i)(B) will result in the
116 enactment, repeal, or change in the rate of a tax under this part for the annexing area;

117 (B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);

118 (C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and

119 (D) if the city or town enacts the tax or changes the rate of the tax described in
120 Subsection (7)(d)(ii)(A), the rate of the tax.

121 (e) (i) If the billing period for a transaction begins before the effective date of the
122 enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax
123 rate increase shall take effect on the first day of the first billing period that begins after the
124 effective date of the enactment of the tax or the tax rate increase.

125 (ii) If the billing period for a transaction begins before the effective date of the repeal
126 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate
127 decrease shall take effect on the first day of the last billing period that began before the
128 effective date of the repeal of the tax or the tax rate decrease.

129 (f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales
130 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
131 described in Subsection (7)(d)(i) takes effect:

132 (A) on the first day of a calendar quarter; and

133 (B) beginning 60 days after the effective date of the enactment, repeal, or change under
134 Subsection (7)(d)(i).

135 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
136 commission may by rule define the term "catalogue sale".